IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.478 OF 2005

Shri Sriram Narhar Kulkarni ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.Kuldeep S.Patil with Mr.Mandar S.Goswami for Applicant.

Mr.R.Y.Mirza, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 9, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. The Applicant before this Court had filed Application for anticipatory bail on the earlier occasion being Criminal Application No.12 of 2005. However, insofar as Applicant herein is concerned, the Application was disposed of with direction to the Investigating Officer to give 72 hours notice

before arrest, for the reasons mentioned in the order dated 13th January 2005. Consequent thereto, the Investigating Officer gave notice to the Applicant about his intention to arrest the Applicant. On receipt of the said notice, the Applicant immediately rushed to the Sessions Court by way of Anticipatory Bail Application. The same has been rejected by the Sessions Judge, for which reason, the present Application for Anticipatory Bail has been moved.

3. On going through the record, the only case made out against the present Applicant, as pointed out by the learned A.P.P. is that the Applicant being the Chief Executive Officer of the Bank, was party to the offence, having sanctioned the loan in favour of the co-accused. Learned A.P.P. submits that out of six proposals placed before the Applicant for sanctioning loan, at least, in one proposal, the Branch Officer had clearly mentioned that the loan was sought by the co-accused against the Inward Bill Purchase Facility already availed by that accused and inspite of that noting, the Applicant sanctioned the loan application.

4. In the first place, it is fairly accepted by the learned A.P.P. that the loan facility was not extended only because of the sanction accorded by the Applicant but by the resolution passed by the Board of Directors to extend such facility to the co-accused. While passing the said resolution, all relevant records were available with the Board of Directors. If it is so, the Applicant, merely because was the Chief Executive Officer, cannot be singled out in the manner in which the investigating agency is proceeding with the case. In any case, learned A.P.P., on instructions, fairly states that extending loan facility, as has been granted, is not impermissible by any standard. In other words, such facility, if could be extended and was permissible, then I fail to understand how any offence is made out at all, so far as the Applicant is concerned. Taking overall view of the matter, I am inclined to grant Anticipatory Bail to the Applicant, as has been granted to the other employee of the bank, who was the loan Officer, on the following conditions:

(a) The Applicant is granted anticipatory bail in connection with the offence registered vide C.R.No.245 of 2004 with Sarkarwada Police Station on executing personal bond in the sum of Rs.1,00,000/- (Rupees One Lakh) with one or four local sureties in the like amount, to be furnished within one week from today.

(b) The Applicant shall abide by the conditions stipulated in Section 438 of the Criminal Procedure Code, as applicable to the State of Maharashtra.

5. Application disposed of on the above terms.

A.M.KHANWILKAR, J.